

1 A bill to be entitled
2 An act relating to support for dependent adult
3 children; creating s. 61.1255, F.S.; providing
4 legislative intent; defining the term "dependent adult
5 child"; requiring that certain rights of a parent or
6 another person be established in a guardianship
7 proceeding; providing construction; specifying
8 individuals who may file a suit to establish support
9 for a dependent adult child; specifying a timeframe
10 during which such suits may be filed; providing an
11 exception; specifying procedures for establishing
12 support; providing construction; specifying who may
13 receive such support before and after the dependent
14 adult child reaches the age of 18; authorizing the
15 court to assign support to certain trusts established
16 for a dependent adult child for a specified purpose;
17 prohibiting the Department of Revenue from filing
18 petitions to establish, modify, or enforce certain
19 support orders; amending s. 61.13, F.S.; conforming a
20 provision to changes made by the act; specifying that
21 a child support order does not terminate on the
22 child's 18th birthday in certain circumstances;
23 specifying that a court may modify a child support
24 order for a minor child or child who is dependent in
25 fact under certain circumstances; authorizing either

26 | parent to consent to mental health treatment for a
 27 | child unless stated otherwise in the parenting plan;
 28 | amending s. 61.29, F.S.; providing that the child
 29 | support guidelines do not apply to certain cases and
 30 | that such cases are determined under other provisions
 31 | of law; amending s. 61.30, F.S.; conforming a
 32 | provision to changes made by the act; creating s.
 33 | 61.31, F.S.; providing factors a court must consider
 34 | when determining the amount of support for a dependent
 35 | adult child; authorizing the court to assign support
 36 | to certain trusts established for a dependent adult
 37 | child for a specified purpose; requiring the court to
 38 | consider certain state and federal programs and
 39 | benefits when making its decisions; prohibiting the
 40 | court from ordering support that will cause
 41 | ineligibility for certain programs; amending s.
 42 | 393.12, F.S.; providing an additional circumstance
 43 | under which a guardian advocate must be represented by
 44 | an attorney in guardianship proceedings; specifying
 45 | that petitions to appoint a guardian advocate for a
 46 | person with a developmental disability may include
 47 | certain requests for support from the person's parent
 48 | or parents; providing construction; amending s.
 49 | 742.031, F.S.; authorizing, rather than requiring, the
 50 | court to order a father pay attorney fees to certain

51 persons under certain circumstances; amending s.
 52 742.06, F.S.; conforming a provision to changes made
 53 by the act; creating s. 744.1013, F.S.; assigning
 54 jurisdiction over petitions for support of dependent
 55 adult children to the guardianship court; specifying
 56 who may receive such support for dependent adult
 57 children over the age of 18; authorizing a court to
 58 assign support to certain trusts established for a
 59 dependent adult child for a specified purpose;
 60 specifying that such support orders supersede any
 61 orders entered under certain provisions of law;
 62 amending s. 744.3021, F.S.; conforming provisions to
 63 changes made by the act; creating s. 744.422, F.S.;
 64 authorizing a guardian of a dependent adult child to
 65 petition the court for certain support payments from
 66 the dependent adult child's parent or parents in
 67 certain circumstances; specifying that the amount of
 68 such support is determined pursuant to certain
 69 provisions of law; providing construction; providing
 70 an effective date.

71
 72 Be It Enacted by the Legislature of the State of Florida:

73
 74 Section 1. Section 61.1255, Florida Statutes, is created
 75 to read:

76 61.1255 Support for dependent adult children; legislative
 77 intent; powers of court.—

78 (1) LEGISLATIVE INTENT.—It is the intent of the
 79 Legislature to:

80 (a) Codify and clarify existing common law and Florida
 81 case law recognizing that the parents of a dependent adult child
 82 have an obligation to support that child;

83 (b) Provide procedures for establishing support for a
 84 dependent adult child; and

85 (c) Provide safeguards, when establishing court-ordered
 86 support for a dependent adult child, to protect and preserve any
 87 means-based government benefits the dependent adult child is
 88 receiving or may be entitled to receive.

89 (2) POWERS OF COURT.—

90 (a) For purposes of this section, the term "dependent
 91 adult child" means an unmarried adult who is incapable of self-
 92 support as a result of a physical or mental incapacity that
 93 began before the person reached the age of 18.

94 (b) The right of a parent or another person to decide
 95 where the dependent adult child will live must be established in
 96 a guardianship proceeding brought under chapter 393 or chapter
 97 744. This paragraph may not be construed to require guardian
 98 advocacy under chapter 393 or a guardianship under chapter 744
 99 in order for a court to order support for a dependent adult
 100 child.

101 (c) A suit to establish support for a dependent adult
 102 child may only be filed by one of the following:

103 1. The dependent adult child or his or her agent under a
 104 durable power of attorney. Any such action must be brought in
 105 the circuit court in the county in which the dependent adult
 106 child resides.

107 2. A parent or other person on behalf of the dependent
 108 adult child. Any such action must be brought under chapter 393
 109 or chapter 744.

110 3. The dependent adult child's guardian advocate appointed
 111 under chapter 393 or guardian appointed under chapter 744, if
 112 the dependent adult child's right to sue or defend lawsuits has
 113 been removed by the court.

114 (d) A suit to establish support for a dependent adult
 115 child may be filed at any time after he or she reaches the age
 116 of 17 years and 6 months, unless such an order is already in
 117 place, having been established during the child's minority.

118 (e) If a court has jurisdiction over the parties because
 119 of an issue of child support, the parents may agree in writing
 120 to provide for dependent adult child support in the existing
 121 case if the agreement is submitted to the court for approval
 122 before the dependent adult child reaches the age of 18.
 123 Otherwise, the amount of support to be paid by one or both
 124 parents must be established in a guardianship proceeding or in a
 125 separate support proceeding in circuit court pursuant to

126 subparagraph (c)1. This section does not preclude a court from
 127 establishing support, ordering continued support, or enforcing
 128 or modifying support orders established under this chapter.

129 (f) Support ordered after the dependent adult child
 130 reaches the age of 18 may be paid only to the dependent adult
 131 child or his or her court-appointed guardian advocate, guardian,
 132 or agent under a durable power of attorney. However, the court
 133 may irrevocably assign the support to a special needs trust
 134 under 42 U.S.C. s. 1396p(d) (4) or to a pooled trust under 42
 135 U.S.C. s. 1396p(d) (4) (C) established for the dependent adult
 136 child by the dependent adult child, his or her agent under a
 137 durable power of attorney, the court, a parent or grandparent, a
 138 guardian, or a guardian advocate who has been delegated those
 139 rights in order to maintain the dependent adult child's means-
 140 based government benefits.

141 (g) The Department of Revenue may not file a petition to
 142 establish, modify, or enforce a support order under this
 143 section.

144 Section 2. Paragraph (a) of subsection (1) and paragraph
 145 (b) of subsection (2) of section 61.13, Florida Statutes, are
 146 amended to read:

147 61.13 Support of children; parenting and time-sharing;
 148 powers of court.—

149 (1) (a) In a proceeding under this chapter, the court may
 150 at any time order either or both parents who owe a duty of

151 support to a child to pay support to the other parent or, ~~in the~~
 152 ~~ease of both parents,~~ to a third party who has custody in
 153 accordance with the child support guidelines schedule in s.
 154 61.30.

155 1. All child support orders and income deduction orders
 156 entered on or after October 1, 2010, must provide:

157 a. For child support to terminate on a child's 18th
 158 birthday unless the court finds or previously found that the
 159 minor child, or the child who is dependent in fact and between
 160 the ages of 18 and 19, is still in high school and is performing
 161 in good faith with a reasonable expectation of graduation before
 162 he or she reaches the age of 19 ~~s. 743.07(2) applies,~~ or the
 163 continued support is otherwise agreed to by the parties;

164 b. A schedule, based on the record existing at the time of
 165 the order, stating the amount of the monthly child support
 166 obligation for all the minor children at the time of the order
 167 and the amount of child support that will be owed for any
 168 remaining children after one or more of the children are no
 169 longer entitled to receive child support; and

170 c. The month, day, and year that the reduction or
 171 termination of child support becomes effective.

172 2. The court initially entering an order requiring one or
 173 both parents to make child support payments has continuing
 174 jurisdiction after the entry of the initial order to modify the
 175 amount and terms and conditions of the child support payments

176 if; the modification is found by the court to be in the best
 177 interests of the child; ~~when~~ the child reaches majority; ~~if~~
 178 there is a substantial change in the circumstances of the
 179 parties; the minor child, or the child who is dependent in fact
 180 and between the ages of 18 and 19, is still in high school and
 181 is performing in good faith with a reasonable expectation of
 182 graduation before he or she reaches the age of 19 if s.
 183 ~~743.07(2) applies;~~ or the ~~when~~ a child is emancipated, marries,
 184 joins the armed services, or dies. The court initially entering
 185 a child support order has continuing jurisdiction to require the
 186 obligee to report to the court on terms prescribed by the court
 187 regarding the disposition of the child support payments.

188 (2)

189 (b) A parenting plan approved by the court must, at a
 190 minimum:

191 1. Describe in adequate detail how the parents will share
 192 and be responsible for the daily tasks associated with the
 193 upbringing of the child;

194 2. Include the time-sharing schedule arrangements that
 195 specify the time that the minor child will spend with each
 196 parent;

197 3. Designate who will be responsible for:

198 a. Any and all forms of health care. If the court orders
 199 shared parental responsibility over health care decisions, ~~the~~
 200 ~~parenting plan must provide that~~ either parent may consent to

201 mental health treatment for the child unless stated otherwise in
 202 the parenting plan.

203 b. School-related matters, including the address to be
 204 used for school-boundary determination and registration.

205 c. Other activities; and

206 4. Describe in adequate detail the methods and
 207 technologies that the parents will use to communicate with the
 208 child.

209 Section 3. Section 61.29, Florida Statutes, is amended to
 210 read:

211 61.29 Child support guidelines; principles;
 212 applicability.—

213 (1) The following principles establish the public policy
 214 of the State of Florida in the creation of the child support
 215 guidelines:

216 (a)~~(1)~~ Each parent has a fundamental obligation to support
 217 his or her minor or legally dependent child.

218 (b)~~(2)~~ The guidelines schedule is based on the parent's
 219 combined net income estimated to have been allocated to the
 220 child as if the parents and children were living in an intact
 221 household.

222 (c)~~(3)~~ The guidelines encourage fair and efficient
 223 settlement of support issues between parents and minimizes the
 224 need for litigation.

225 (2) The guidelines in this section do not apply to support

226 for a dependent adult child as defined in s. 61.1255(2) (a). The
 227 amount of support for a dependent adult child is determined by
 228 s. 61.31.

229 Section 4. Paragraph (a) of subsection (1) of section
 230 61.30, Florida Statutes, is amended to read:

231 61.30 Child support guidelines; retroactive child
 232 support.—

233 (1) (a) The child support guideline amount as determined by
 234 this section presumptively establishes the amount the trier of
 235 fact must ~~shall~~ order as child support for a minor child, or a
 236 child who is dependent in fact and between the ages of 18 and 19
 237 and who is still in high school and is performing in good faith
 238 with a reasonable expectation of graduation before he or she
 239 reaches the age of 19, in an initial proceeding for such support
 240 or in a proceeding for modification of an existing order for
 241 such support, whether the proceeding arises under this or
 242 another chapter. The trier of fact may order payment of child
 243 support which varies, plus or minus 5 percent, from the
 244 guideline amount, after considering all relevant factors,
 245 including the needs of the child or children, age, station in
 246 life, standard of living, and the financial status and ability
 247 of each parent. The trier of fact may order payment of child
 248 support in an amount which varies more than 5 percent from such
 249 guideline amount only upon a written finding explaining why
 250 ordering payment of such guideline amount would be unjust or

251 inappropriate. Notwithstanding the variance limitations of this
 252 section, the trier of fact must ~~shall~~ order payment of child
 253 support which varies from the guideline amount as provided in
 254 paragraph (11) (b) whenever any of the children are required by
 255 court order or mediation agreement to spend a substantial amount
 256 of time with either parent. This requirement applies to any
 257 living arrangement, whether temporary or permanent.

258 Section 5. Section 61.31, Florida Statutes, is created to
 259 read:

260 61.31 Amount of support for a dependent adult child.-

261 (1) In determining the amount of support to be paid after
 262 a dependent adult child as defined in s. 61.1255(2) (a) reaches
 263 the age of 18, the specific terms and conditions of such
 264 support, and the rights and duties of both parents with respect
 265 to the support, the court shall determine and give consideration
 266 to all of the following:

267 (a) The dependent adult child's income and assets.

268 (b) Any existing and future needs of the dependent adult
 269 child which are directly related to his or her mental or
 270 physical incapacity and the substantial care and personal
 271 supervision directly required by or related to that incapacity.

272 (c) Whether a parent or other person pays for or will pay
 273 for the care or supervision of the dependent adult child or
 274 provides or will provide substantial care or personal
 275 supervision to the dependent adult child himself or herself.

276 (d) The financial resources available to each parent for
 277 the support, care, and supervision of the dependent adult child.

278 (e) Any other financial resources or other resources or
 279 programs available for the support, care, and supervision of the
 280 dependent adult child.

281 (2) The court may irrevocably assign the support to a
 282 special needs trust under 42 U.S.C. s. 1396p(d) (4) or to a
 283 pooled trust under 42 U.S.C. s. 1396p(d) (4) (C) established for
 284 the dependent adult child by the dependent adult child, his or
 285 her agent under a durable power of attorney, the court, a parent
 286 or grandparent, a guardian, or a guardian advocate who has been
 287 delegated those rights in order to maintain the dependent adult
 288 child's means-based government benefits.

289 (3) In making its decisions, the court shall take into
 290 consideration:

291 (a) Any state or federal programs and benefits that the
 292 dependent adult child is receiving or may receive due to
 293 reaching the age of majority; and

294 (b) The effect that the court-ordered support would have
 295 on the dependent adult child's eligibility for such programs and
 296 benefits.

297 (4) The court may not order support that will cause
 298 ineligibility for programs in which the dependent adult child
 299 currently participates, or programs and services for which the
 300 dependent adult child is reasonably expected to become eligible

301 upon reaching the age of majority.

302 Section 6. Paragraph (b) of subsection (2) and subsection
303 (3) of section 393.12, Florida Statutes, are amended to read:

304 393.12 Capacity; appointment of guardian advocate.—

305 (2) APPOINTMENT OF A GUARDIAN ADVOCATE.—

306 (b) A person who is being considered for appointment or is
307 appointed as a guardian advocate is not required to ~~need not~~ be
308 represented by an attorney unless required by the court or if
309 the guardian advocate is delegated any rights regarding property
310 other than the right to be the representative payee for
311 government benefits or the right of a parent to receive periodic
312 payments for the support, care, maintenance, education, or other
313 needs of the person with a developmental disability. This
314 paragraph applies only to proceedings relating to the
315 appointment of a guardian advocate and the court's supervision
316 of a guardian advocate and is not an exercise of the
317 Legislature's authority under ~~pursuant to~~ s. 2(a), Art. V of the
318 State Constitution.

319 (3) PETITION.—

320 (a) A petition to appoint a guardian advocate for a person
321 with a developmental disability may be executed by an adult
322 person who is a resident of this state. The petition must be
323 verified and must:

324 1. ~~(a)~~ State the name, age, and present address of the
325 petitioner and his or her relationship to the person with a

326 developmental disability;

327 ~~2.(b)~~ State the name, age, county of residence, and
 328 present address of the person with a developmental disability;

329 ~~3.(e)~~ Allege that the petitioner believes that the person
 330 needs a guardian advocate and specify the factual information on
 331 which such belief is based;

332 ~~4.(d)~~ Specify the exact areas in which the person lacks
 333 the decisionmaking ability to make informed decisions about his
 334 or her care and treatment services or to meet the essential
 335 requirements for his or her physical health or safety;

336 ~~5.(e)~~ Specify the legal disabilities to which the person
 337 is subject; and

338 ~~6.(f)~~ State the name of the proposed guardian advocate,
 339 the relationship of that person to the person with a
 340 developmental disability; the relationship that the proposed
 341 guardian advocate had or has with a provider of health care
 342 services, residential services, or other services to the person
 343 with a developmental disability; and the reason why this person
 344 should be appointed. The petition must also state if a willing
 345 and qualified guardian advocate cannot be located, ~~the petition~~
 346 ~~shall so state.~~

347 (b) A petition to appoint a guardian advocate may include
 348 a request for periodic payments from either or both parents of
 349 the person with a developmental disability for the support,
 350 care, maintenance, education, or other needs of that person

351 pursuant to s. 61.1255. This section may not be construed to
 352 confer any obligation or duty for a guardian advocate to pursue
 353 support for the person with a developmental disability.

354 Section 7. Subsection (1) of section 742.031, Florida
 355 Statutes, is amended to read:

356 742.031 Hearings; court orders for support, hospital
 357 expenses, and attorney fees ~~attorney's fee~~.-

358 (1) Hearings for the purpose of establishing or refuting
 359 the allegations of the complaint and answer must ~~shall~~ be held
 360 in the chambers and may be restricted to persons, in addition to
 361 the parties involved and their counsel, as the judge in his or
 362 her discretion may direct. The court shall determine the issues
 363 of paternity of the child and the ability of the parents to
 364 support the child. Each party's social security number must
 365 ~~shall~~ be recorded in the file containing the adjudication of
 366 paternity. If the court finds that the alleged father is the
 367 father of the child, it must ~~shall~~ so order. If appropriate, the
 368 court may ~~shall~~ order the father to pay the complainant, her
 369 guardian, or any other person assuming responsibility for the
 370 child moneys sufficient to pay reasonable attorney ~~attorney's~~
 371 fees, hospital or medical expenses, cost of confinement, and any
 372 other expenses incident to the birth of the child and to pay all
 373 costs of the proceeding. Bills for pregnancy, childbirth, and
 374 scientific testing are admissible as evidence without requiring
 375 third-party foundation testimony, and ~~shall~~ constitute prima

376 | facie evidence of amounts incurred for such services or for
 377 | testing on behalf of the child. The court shall order either or
 378 | both parents owing a duty of support to the child to pay support
 379 | under chapter 61 pursuant to s. 61.30. The court must ~~shall~~
 380 | issue, upon motion by a party, a temporary order requiring child
 381 | support for a minor child under ~~pursuant to~~ s. 61.30 pending an
 382 | administrative or judicial determination of parentage, if there
 383 | is clear and convincing evidence of paternity on the basis of
 384 | genetic tests or other evidence. The court may also make a
 385 | determination of an appropriate parenting plan, including a
 386 | time-sharing schedule, in accordance with chapter 61.

387 | Section 8. Section 742.06, Florida Statutes, is amended to
 388 | read:

389 | 742.06 Jurisdiction retained for future orders.—The court
 390 | shall retain jurisdiction of the cause for the purpose of
 391 | entering such other and further orders as changing circumstances
 392 | of the parties may in justice and equity require. Modifications
 393 | of child support and time-sharing are determined under chapter
 394 | 61.

395 | Section 9. Section 744.1013, Florida Statutes, is created
 396 | to read:

397 | 744.1013 Jurisdiction for support claims.—The court has
 398 | jurisdiction over claims for support of a dependent adult child
 399 | as defined in s. 61.1255(2) (a) and shall adjudicate the
 400 | financial obligation, including health insurance, of the

401 dependent adult child's parents and enforce the financial
 402 obligation as provided in chapter 61. All support required to be
 403 paid in relation to a dependent adult child over the age of 18
 404 must be paid to the dependent adult child or his or her court-
 405 appointed guardian advocate, guardian, or agent under a durable
 406 power of attorney. However, the court may irrevocably assign the
 407 support to a special needs trust under 42 U.S.C. s. 1396p(d) (4)
 408 or to a pooled trust under 42 U.S.C. s. 1396p(d) (4) (C)
 409 established for the dependent adult child by the dependent adult
 410 child, his or her agent under a durable power of attorney, the
 411 court, a parent or grandparent, a guardian, or a guardian
 412 advocate who has been delegated those rights in order to
 413 maintain the dependent adult child's means-based government
 414 benefits. Any order for support entered in a proceeding under
 415 this chapter or chapter 393 supersedes any support order entered
 416 under chapter 61.

417 Section 10. Subsection (4) of section 744.3021, Florida
 418 Statutes, is amended to read:

419 744.3021 Guardians of minors.—

420 (4) If a petition is filed under ~~pursuant to~~ this section
 421 requesting appointment of a guardian for a minor who is the
 422 subject of any proceeding under chapter 39 or chapter 61 and who
 423 is aged 17 years and 6 months or older, the court division with
 424 jurisdiction over guardianship matters has jurisdiction over the
 425 proceedings under s. 744.331. The alleged incapacitated minor

426 | under this subsection must ~~shall~~ be provided all the due process
 427 | rights conferred upon an alleged incapacitated adult under
 428 | ~~pursuant to~~ this chapter and applicable court rules. The order
 429 | of adjudication under s. 744.331 and the letters of limited or
 430 | plenary guardianship may issue upon the minor's 18th birthday or
 431 | as soon thereafter as possible. Any proceeding under ~~pursuant to~~
 432 | this subsection must ~~shall~~ be conducted separately from any
 433 | other proceeding.

434 | Section 11. Section 744.422, Florida Statutes, is created
 435 | to read:

436 | 744.422 Petition for child support for a dependent adult
 437 | child.—Pursuant to s. 61.1255, a guardian may petition the court
 438 | for an order requiring either or both parents to pay periodic
 439 | amounts for the support, care, maintenance, education, and any
 440 | other needs of a dependent adult child if not otherwise provided
 441 | for in the guardianship plan. The amount of support is
 442 | determined pursuant to s. 61.31. This section may not be
 443 | construed to confer any obligation or duty for a guardian to
 444 | pursue support on behalf of a ward.

445 | Section 12. This act shall take effect July 1, 2023.